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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,693	09/10/2001	Maria Cruz Ben-Mizzian	8050-9	8676
39207 7590 07/03/2007 SACCO & ASSOCIATES, PA P.O. BOX 30999 PALM BEACH GARDENS, FL 33420-0999			EXAMINER WEISBERGER, RICHARD C	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 07/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/869,693

**Applicant(s)**

BEN-MIZZIAN ET AL.

**Examiner**

Richard C. Weisberger

**Art Unit**

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

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***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The preamble is directed to TWO distinct statutory classes.

***Claim Rejections - 35 USC § 112***

Claim 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant is encouraged to contact the examiner if assistance is needed in drafting the claims. The claims are replete with language that makes it difficult to determine the scope of the invention. The limitation "the payer communicating the payer's temporary memory means" is unclear. This limitation is critical to the determining the scope of the invention and renders the claims vague and infinite. In addition, means independent from the payors computer means is indefinite. Clarification is requested. Also, the limitations, wihtdrawable and packtype are vague and indefinite. Also, the language directed to the parties using the system renders the apparatus claim indefinite. In the claims, other fiscal interesting data is indefinite in scope.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 7,031,939.

The reference teaches a process and apparatus for real time between two parties connected through a computer network, one of the parties being an individual or company paying a given amount of money either for a service received or goods purchased through the network or any other reason and the other party being an individual or a company collecting the said amount, the said process comprising following steps:

the payer connecting, from computer means and by means of a standard program and communication line, the said computer network for having access to the payee's computer means (2);

the payer communicating the payer's temporary memory means;

electronically transferring, in real time, through the said communication line (5) fully or partly the amount of money stored within the payer's temporary memory means (i0) to collecting means associated to the payee's computer means [2], capable to acknowledge the said authentication and validation protocol, after the payer introduced an order; and

the payee confirming the correct reception of the said money transfer to the payer by means of an electronic message of agreement sent through the network. See col. 5 and fig. 4.

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The prior art fails to teach the payor communicating to the payers's temporary memory means. The examiner interprets this limitation include a smart card. It would have been obvious for one skilled in the art to have used the primary reference to transfer money from one's checking account to one's smart card. The motivation for doing so would to allow for better use of the smart card. It would also have been obvious to use the smart card and the debiting source for crediting other accounts as motivated by the need to manage one's money. Thus it would have been obvious for one skilled in the art to have added a card smart card reader to one computer for the purposes of inputting the information on the smart card as motivated by the need to increase the efficiency of the transaction.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C. Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached on 6:30 AM to 10:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Trammel can be reached on 571 272 6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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 Richard C Weisberger  
Primary Examiner  
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